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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

GILBERTO JESUS PENA

Defendant and Appellant.

G056070

(Super. Ct. No. 10NF0523)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, John Conley, Judge. Affirmed.

Doris M. LeRoy, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * *

A jury convicted Gilberto Jesus Pena of five counts, including street terrorism, and found true gang and other enhancements. Pena appealed. In *People v. Pena* (Aug. 29, 2017, G053303) [nonpub. opn.] (*Pena*), this court held there was

insufficient evidence the alleged gang was a criminal street gang as statutorily defined.¹ We reversed the conviction for street terrorism (Pen. Code, § 186.22, subd. (a)), and the street terrorism enhancements (Pen. Code, § 186.22, subd. (b)(1)). We remanded the case for resentencing. (*Pena, supra*, G053303.) At the resentencing hearing, the trial court sentenced Pena to serve a total of 25 years to life in prison with a minimum of seven years. Pena appeals from this judgment.

We appointed counsel to represent Pena on appeal. Counsel filed a brief that set forth the facts of the case. Counsel did not argue against her client but advised the court she found no issues to argue on Pena's behalf.

Counsel filed a brief following the procedures outlined in *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). The court in *Wende* explained a *Wende* brief is one that sets forth a summary of proceedings and facts but raises no specific issues. Under these circumstances, the court must conduct an independent review of the entire record. When the appellant himself raises specific issues in a *Wende* proceeding, we must expressly address them in our opinion and explain why they fail. (*People v. Kelly* (2006) 40 Cal.4th 106, 110, 120, 124.)

Counsel did not provide the court with any information as to issues that might arguably support an appeal pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*). We gave Pena 30 days to file written argument on his own behalf. That time has passed, and Pena has not filed any written argument.

We have reviewed the record in accordance with our obligations under *Wende*. We found no arguable issues on appeal. We affirm the judgment.

FACTS

On remand, the trial court sentenced Pena to 25 years to life for conspiracy to commit murder, three years for assault with a deadly weapon (stayed), seven years to

¹ A full recitation of the underlying facts may be found in *Pena, supra*, G053303.

life for attempted murder with premeditation (concurrent),² and three years for assault with a deadly weapon count (stayed). The total sentence was 25 years to life with a minimum of seven years.

Upon review of the abstract of judgment issued after resentencing, appellate counsel noted two clerical errors. In a letter to the trial court, counsel requested correction of those errors and issuance of a revised abstract of judgment. In response, the trial court ordered correction of the errors and issued a revised abstract of judgment reflecting the corrections.

DISCUSSION

A review of the record pursuant to *Wende, supra*, 25 Cal.3d 436, and *Anders, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue.

DISPOSITION

The judgment is affirmed.

O'LEARY, P. J.

WE CONCUR:

FYBEL, J.

THOMPSON, J.

²

The prosecution argued the sentences for conspiracy to commit murder and attempted murder with premeditation should be imposed as consecutive sentences. The court rejected that argument and ordered the sentences be served concurrently.